

PATENT APPLICATION

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of

Docket No: Q78337

Kun-tae KIM

Appln. No.: 10/761,190

Group Art Unit: 2425

Confirmation No.: 2320

Examiner: Jason K. LIN

Filed: January 22, 2004

For: SET TOP BOX CAPABLE OF PERFORMING WIRELESS TRANSMISSION

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

In accordance with the provisions of 37 C.F.R. § 41.37, Appellant submits the following:

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I. REAL PARTY IN INTEREST

The real party in interest is Samsung Electronics Co., Ltd., which is the assignee of the present application. The assignment was recorded on January 22, 2004 at Reel 014911, Frame 0103.

II. RELATED APPEALS AND INTERFERENCES

Upon information and belief, there are no other prior or pending appeals, interferences or judicial proceedings known to Appellant's representative or the Assignee that may be related to, be directly affected by, or have a bearing on the Board's decision in the Appeal.

III. STATUS OF CLAIMS

Claims 1-3, 5-11, 13-15, 17 and 19 are all the claims pending in the application. Claims 4, 12, 16, and 18 have been canceled without prejudice or disclaimer. Claims 1 and 10 are the only independent claims. The rejections are summarized as follows:

1. Claims 1, 2, 10, 17 and 19 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Appl. Publ. No. 2003/0131360 to Joung et al. (“Joung ‘360”) in view of U.S. Patent No. 5,555,097 to Joung et al. (“Joung ‘097”) and further in view of U.S. Patent No. 6,839,851 to Saitoh et al. (“Saitoh”).
2. Claims 3, 8 and 11 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Joung ‘360, in view of Joung ‘097, in view of Saitoh, and further in view of U.S. Patent No. 6,704,060 to Levandowski (“Levandowski”).
3. Claims 5, 9 and 13 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Joung ‘360, in view of Joung ‘097, in view of Saitoh, and further in view of U.S. Patent No. 5,576,760 to Akiyama (“Akiyama”).
4. Claims 7 and 15 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Joung ‘360, in view of Joung ‘097, in view of Saitoh, in view of Akiyama, and further in view of U.S. Patent Appl. Publ. No. 2001/0021998 to Margulis (“Margulis”).
5. Claims 6 and 14 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Joung ‘360, in view of Joung ‘097, in view of Saitoh, in view of Levandowski, and further in view of Margulis.

Claims 1-3, 5-11, 13-15, 17 and 19 are set forth in their entirety in Appendix A, attached to this Brief on Appeal. Appellant appeals the rejection of claims 1, 2, 10, 17 and 19 over Joung '360 in view of Joung '097 and Saitoh, the rejection of claims 3, 8 and 11 over Joung '360 in view of Joung '097, Saitoh, and Levandowski, the rejection of claims 5, 9 and 13 over Joung '360 in view of Joung '097, Saitoh, and Akiyama, the rejection of claims 7 and 15 over Joung '360 in view of Joung '097, Saitoh, Akiyama, and Margulis, and the rejection of claims 6 and 14 over Joung '360 in view of Joung '097, Saitoh, Levandowski, and Margulis.

IV. STATUS OF AMENDMENTS

In response to the Final Office Action issued June 2, 2009, Appellant submitted arguments and a request for reconsideration in a response under 37 C.F.R. § 1.116. The Advisory Action issued on August 28, 2009, indicates that the request for reconsideration was considered but did not place the application in condition for allowance. Appellant submitted a Pre-Appeal Brief Request for Review and Notice of Appeal on September 2, 2009. The decision in the Notice of Panel Decision from Pre-Appeal Brief Review dated December 1, 2009 is to proceed to Board of Patent Appeals and Interferences. For the purposes of this Appeal, Appellant understands that all amendments have been entered.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

A concise explanation of the subject matter of claims 1 and 10, the only independent claims involved in the Appeal, is set forth below.

The present invention relates to a set top box capable of performing wireless transmission. (*See Abstract*). The following discussion includes references to various portions of the specification of the instant application to aid in understanding of the invention. However, such references, unless otherwise indicated, are intended to point out the described exemplary embodiments; they are not intended to limit the scope of the claims to only the express embodiments cited below.

Claim 1 recites a set top box (Fig. 3) including a digital television receiver 201-2, which converts a tuned digital broadcasting signal into a first transport stream (TS). (*See Fig. 3; page 6, lines 4-7; page 7, lines 3-6*). The set top box further includes a TS converting unit 201-3, which receives at least one of a progressive scanning image signal input from outside and an external interlaced scanning image signal input from outside, converts the progressive scanning image signal into an interlaced scanning image signal if the progressive scanning image signal is received, and then converts one of the interlaced scanning image signal and the external interlaced scanning image signal into a second TS. (*See Fig. 3; page 6, line 7; page 7, lines 6-11; page 8, lines 4-6*). The set top box also includes a wireless processing module 201-5, which processes one of the first TS and the second TS as a processed output and wirelessly transmits the processed output. (*See Fig. 3; page 6, line 8; page 10, lines 12-20*).

The TS converting unit 201-3 includes a converter 201-32, 201-33, which converts the progressive scanning image signal input from outside into the interlaced scanning image signal and outputs the interlaced scanning image signal as an output of the converter by separating fields from the progressive scanning image signal and transmitting the separated fields. (*See Fig. 3; page 8, line 17 to page 9, line 9*). The TS converting unit 201-3 also includes an encoding unit 201-35, which converts the external interlaced scanning image signal input from outside or the output of the converter into the second TS. (*See Fig. 3; page 9, lines 16-19*). The TS converting unit 201-3 further includes one switching unit 201-34 operable to receive the external interlaced scanning image signal and the interlaced scanning image signal output from the converter 201-32, 201-33 and selects one of the external interlaced scanning image signal and the interlaced scanning image signal output from the converter 201-32, 201-33 to output to the encoding unit 201-35. (*See Fig. 3; page 9, lines 10-15*).

Claim 10 recites a method for performing wireless transmission of television signals including receiving a digital broadcasting signal and converting the digital broadcasting signal into a first transport stream (TS). (*See Fig. 3; page 6, lines 4-7; page 7, lines 3-6*). The method further includes receiving at least one of an external progressive scanning image signal and an external interlaced scanning image signal, converting the external progressive scanning image signal into an internal interlaced scanning image signal by separating fields from the progressive scanning image signal and transmitting the separated fields if the external progressive scanning image signal is received. (*See page 7, lines 6-11; page 8, lines 4-6; page 8, line 17 to page 9, line 9*). The method also includes switching between one of the internal interlaced scanning image

signal and the external interlaced scanning image signal, converting one of the internal interlaced scanning image signal and the external interlaced scanning image signal into a second TS, and transmitting one of the first TS and the second TS over a wireless medium. (*See* page 9, lines 10-19; page 6, line 8; page 10, lines 12-20).

Converting one of the internal interlaced scanning image signal and the external interlaced scanning image signal into a second TS includes encoding one of the external interlaced scanning image signal and the internal interlaced scanning image signal into the second TS, and converting one of the internal interlaced scanning image signal and the external interlaced scanning image signal received from the switching, into the second TS. (*See* page 9, lines 16-19).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1. Whether claims 1, 2, 10, 17, and 19 are unpatentable over Joung '360 in view of Joung '097 and Saitoh.
2. Whether claims 3, 8, and 11 are unpatentable over Joung '360 in view of Joung '097, Saitoh, and Levandowski.
3. Whether claims 5, 9, and 13 are unpatentable over Joung '360 in view of Joung '097, Saitoh, and Akiyama.
4. Whether claims 7 and 15 are unpatentable over Joung '360 in view of Joung '097, Saitoh, Akiyama, and Margulis.
5. Whether claims 6 and 14 are unpatentable over Joung '360 in view of Joung '097, Saitoh, Levandowski, and Margulis.

VII. ARGUMENT

At least for the reasons discussed below, Appellant submits that the rejection of claims 1-3, 5-11, 13-15, 17 and 19 on appeal is improper, and reversal of the grounds of rejection is requested. Appellant now turns to the rejections at issue.

A. Rejection of Claims 1, 2, 10, 17, and 19 under 35 U.S.C. § 103(a) over Joung '360 in view of Joung '097 and Saitoh

As evidenced by the following, the rejection of claims 1, 2, 10, 17, and 19 is improper because Joung '360 in view of Joung '097 and Saitoh fails to teach or suggest each and every recited claim element.

Claim 1 recites:

A set top box capable of performing wireless transmission, the set top box comprising:

a digital television receiver, which converts a tuned digital broadcasting signal into a first transport stream (TS);

a TS converting unit, which receives at least one of a progressive scanning image signal input from outside and an external interlaced scanning image signal input from outside, converts the progressive scanning image signal into an interlaced scanning image signal if the progressive scanning image signal is received, and then converts one of the interlaced scanning image signal and the external interlaced scanning image signal into a second TS; and

a wireless processing module, which processes one of the first TS and the second TS as a processed output and wirelessly transmits the processed output,

wherein the TS converting unit comprises:

a converter, which converts the progressive scanning image signal input from outside into the interlaced scanning image signal and outputs the interlaced scanning image signal as an output of the converter by separating fields from the progressive scanning image signal and transmitting the separated fields; and

an encoding unit, which converts the external interlaced scanning image signal input from outside or the output of the converter into the second TS, and

wherein the TS converting unit further comprises one switching unit operable to receive the external interlaced scanning image signal and the interlaced scanning image signal output from the converter and selects one of the external interlaced scanning image signal and the interlaced scanning image signal output from the converter to output to the encoding unit.

As discussed in the Response filed on July 31, 2009, Joung '360 is silent regarding any receiving of at least a progressive scanning image signal and an external interlaced scanning image signal and selection of the external interlaced scanning image signal or a converted interlaced scanning image signal. In particular, there is no teaching or suggestion in Joung '360 that its stream source device (100), which transmits an HD transmission packet stream wirelessly to a display device, would also convert the HD transmission packet stream into an SD transmission packet stream.

The Examiner concedes on pages 3-4 of the Office Action dated June 2, 2009 that "Joung '360 does not explicitly teach [a TS converting unit, which] receives at least one of a progressive scanning image signal input from outside and an external interlaced scanning signal from outside, converts the progressive scanning image signal into an interlaced scanning image signal if the progressive scanning signal is received, and then converts one of the interlaced scanning signal and the external interlaced scanning image signal into a second TS; and wherein the TS converting unit comprises: a converter, which converts the progressive scanning image signal input from outside into the interlaced scanning image signal and outputs the interlaced scanning image signal as an output of the converter by separating fields from the progressive scanning image signal and transmitting the separated fields; and an encoding unit, which converts the

external interlaced scanning image signal input from outside or the output of the [converter] into the second TS, and further comprises one switching unit operable to [receive] the external interlaced scanning image signal and the interlaced scanning image signal output from the converter and selects one of the external interlaced scanning image signal and the interlaced scanning image signal output from the converter to output to the encoding unit.”

The Examiner, however, relies upon Joung ‘097 to remedy the deficiencies of Joung ‘360. In particular, the Examiner refers to Fig. 2 and column 10, line 51 to column 11, line 7 of Joung ‘097 for its disclosure of a format conversion circuit (9) including a scanning format converter (25) that performs progressive/interlaced scanning conversion with respect to input video data.

The Examiner alleges on page 4 of the Office Action dated June 2, 2009 that Joung ‘097 teaches a converter which converts the progressive scanning image signal input from outside into the interlaced scanning image signal and outputs the interlaced scanning image signal as an output of the converter by separating fields from the progressive scanning image signal and transmitting the separated fields. *See* Joung ‘097 at col. 10, line 51 to col. 11, line 7. In the Continuation Sheet of the Advisory Action dated August 28, 2009, the Examiner asserts that switch SW9 of Joung ‘097 (FIG. 2 and column 10, line 51 to column 11, line 7) corresponds to the claimed “one switching unit operable to receive the external interlaced scanning image signal and the interlaced scanning image signal output from the converter.”

However, switch SW9 of Joung ‘097 cannot correspond to the claimed one switching unit because switch SW9 does not receive any *interlaced scanning image signal output from a*

converter of a TS converting unit. The scanning format converter (25) of Joung '097 converts the input video data Y, U and V or Yc, Uc and Vc of the progressive scanning type into the video data Yi, Ui and Vi of the interlaced scanning type and outputs the converted video data Yi, Ui and Vi to the format region converter (26). *See* Joung '097 at col. 10, line 62 to col. 11, line 7. In other words, Joung '097 teaches that the converted interlaced scanning type video data is output directly to the format region converter (26) without passing through the switch SW9. On the other hand, if the format of the input video data Y, U and V or Yc, Uc and Vc is the interlaced scanning type, Joung '097's scanning format converter (25) "passes the video data Y, U and V or Yc, Uc and Vc of the interlaced scanning type to the format region converter (26) through the switch SW9." (emphasis added). That is, Joung '097 specifies that when the input video data is of the interlaced scanning type, it is passed through the switch SW9 to the format region converter (26), but video data converted from progressive scanning type to interlaced scanning type is "output...to the format region converter 26" (*i.e.*, without passing through switch SW9).

Therefore, although the switch SW9 of Joung '097 may receive at its input unconverted interlaced scanning type video data, the switch SW9 never receives an interlaced scanning signal which was converted from a received progressive scanning image signal.

Accordingly, Joung '360 and Joung '097, taken alone or in combination, fail to teach or suggest at least "wherein the TS converting unit further comprises one switching unit operable to receive the external interlaced scanning image signal and the interlaced scanning image signal output from the converter and selects one of the external interlaced scanning image signal and

the interlaced scanning image signal output from the converter to output to the encoding unit,” as recited by claim 1.

Furthermore, Saitoh does not remedy the deficiencies of Joung ‘360 and Joung ‘097, as the *combination of Joung ‘360, Joung ‘097 and Saitoh, would still fail to teach or suggest a switching unit operable to receive the external interlaced scanning image signal and the interlaced scanning image signal output from the converter and selects one of the external interlaced scanning image signal and the interlaced scanning image signal output from the converter to output to the encoding unit.*

Accordingly, Appellant respectfully submits that claim 1 is patentably distinguished over Joung ‘360 in view of Joung ‘097 and Saitoh.

In addition, Joung ‘360, teaches that transmission stream packet stream generating unit 120 includes digital broadcast receiving unit 121 and digital signal receiving unit 122, which each output transmission packet streams to multiplexer 125. *See* Joung ‘360 at Fig. 2 and paragraphs [0044]-[0045]. On the other hand, Joung ‘097 teaches that component video signals Y, U, V, and Yc, Uc, Vc are input into scanning format converter 25 and switch SW9. *See* Joung ‘097 at Fig. 2 and col. 10, line 62 to col. 11, line 7. Therefore, one of ordinary skill in the art would not combine the switch SW9 of Joung ‘097 with the transmission stream packet stream generating unit 120 of Joung ‘360 because switch SW9 is designed to receive component video signals, not transport packet streams. Further, the scanning format converter 25 is designed to convert component video signals, not transmission stream packets.

Therefore, Appellant respectfully submits that the Examiner has failed to establish a *prima facie* case of obviousness because one of ordinary skill in the art would not have combined the switch SW9 of Joung '097 with Joung '360.¹ Accordingly, Appellant respectfully submits that claim 1 is patentable over Joung '360 in view of Joung '097 and Saitoh for at least this additional reason.

Appellant respectfully submits that claim 10 is a related independent method claim and is patentably distinguished over Joung '360 in view of Joung '097 and Saitoh for at least reasons similar to those set forth for claim 1. Claims 2, 17 and 19 are dependent claims which are also patentably distinguished over Joung '360 in view of Joung '097 and Saitoh at least by virtue of their respective dependencies as well as for their additionally recited elements.

B. Rejection of Claims 3, 8, and 11 under 35 U.S.C. § 103(a) over Joung '360 in view of Joung '097, Saitoh, and Levandowski

Since claims 3 and 8 depend from claim 1, and claim 11 depends from claim 10, and Levandowski fails to cure the deficient teachings of Joung '360, Joung '097, and Saitoh with respect to claims 1 and 10, Appellant respectfully submits that claims 3, 8, and 11 are patentable at least by virtue of their respective dependencies as well as for their additionally recited elements.

¹ “[A] patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. Although common sense directs one to look with care at a patent application that claims as innovation the combination of two known devices according to their established functions, it can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does.” *KSR Int'l v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007).

C. Rejection of Claims 5, 9, and 13 under 35 U.S.C. § 103(a) over Joung ‘360 in view of Joung ‘097, Saitoh, and Akiyama

Since claims 5 and 9 depend from claim 1, and claim 13 depends from claim 10, and Akiyama fails to cure the deficient teachings of Joung ‘360, Joung ‘097, and Saitoh with respect to claims 1 and 10, Appellant respectfully submits that claims 5, 9, and 13 are patentable at least by virtue of their respective dependencies as well as for their additionally recited elements.

D. Rejection of Claims 7 and 15 under 35 U.S.C. § 103(a) over Joung ‘360 in view of Joung ‘097, Saitoh, Akiyama, and Margulis

Since claims 7 and 15 depend from claims 1 and 10, respectively, and Akiyama and Margulis fail to cure the deficient teachings of Joung ‘360, Joung ‘097, and Saitoh with respect to claims 1 and 10, Appellant respectfully submits that claims 7 and 15 are patentable at least by virtue of their respective dependencies as well as for their additionally recited elements.

E. Rejection of Claims 7 and 15 under 35 U.S.C. § 103(a) over Joung ‘360 in view of Joung ‘097, Saitoh, Levandowski, and Margulis

Since claims 6 and 14 depend from claims 1 and 10, respectively, and Levandowski and Margulis fail to cure the deficient teachings of Joung ‘360, Joung ‘097, and Saitoh with respect to claims 1 and 10, Appellant respectfully submits that claims 6 and 14 are patentable at least by virtue of their respective dependencies as well as for their additionally recited elements.

F. Conclusion

In view of the foregoing, it is respectfully submitted that all of claims 1-3, 5-11, 13-15, 17 and 19 are allowable.

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The USPTO is directed and authorized to charge the statutory fee (37 C.F.R. §41.37(a) and 1.17(c)) and all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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CLAIMS APPENDIX

CLAIMS 1-3, 5-11, 13-15, 17 and 19 ON APPEAL:

1. A set top box capable of performing wireless transmission, the set top box comprising:
 - a digital television receiver, which converts a tuned digital broadcasting signal into a first transport stream (TS);
 - a TS converting unit, which receives at least one of a progressive scanning image signal input from outside and an external interlaced scanning image signal input from outside, converts the progressive scanning image signal into an interlaced scanning image signal if the progressive scanning image signal is received, and then converts one of the interlaced scanning image signal and the external interlaced scanning image signal into a second TS; and
 - a wireless processing module, which processes one of the first TS and the second TS as a processed output and wirelessly transmits the processed output,
 - wherein the TS converting unit comprises:
 - a converter, which converts the progressive scanning image signal input from outside into the interlaced scanning image signal and outputs the interlaced scanning image signal as an output of the converter by separating fields from the progressive scanning image signal and transmitting the separated fields; and
 - an encoding unit, which converts the external interlaced scanning image signal input from outside or the output of the converter into the second TS, and
 - wherein the TS converting unit further comprises one switching unit operable to receive the external interlaced scanning image signal and the interlaced scanning image signal output

from the converter and selects one of the external interlaced scanning image signal and the interlaced scanning image signal output from the converter to output to the encoding unit.

2. The set top box of claim 1 further comprising another switching unit which receives the first TS and the second TS and outputs one of the first TS and the second TS as an output of the other switching unit.

3. The set top box of claim 2 further comprising a decoding unit which decodes the output of the other switching unit and outputs a decoded TS stream to an image device connected to the set top box by a wire.

4. (canceled).

5. The set top box of claim 1, wherein the converter comprises:
an analog-to-digital converter (ADC), which converts the progressive scanning image signal input from outside into a digital signal; and
a down converter, which converts the progressive scanning image signal converted into the digital signal into the interlaced scanning image signal by separating the fields from the progressive scanning image signal and transmitting the separated fields.

6. The set top box of claim 3, wherein the wireless processing module wirelessly transmits the processed output in a radio frequency range.

7. The set top box of claim 5, wherein the wireless processing module wirelessly transmits the processed output in a radio frequency range.

8. The set top box of claim 3, wherein the digital television receiver is an advanced television system committee (ATSC) receiver.

9. The set top box of claim 5, wherein the digital television receiver is an advanced television system committee (ATSC) receiver.

10. A method for performing wireless transmission of television signals comprising:
receiving a digital broadcasting signal and converting the digital broadcasting signal into a first transport stream (TS);
receiving at least one of an external progressive scanning image signal and an external interlaced scanning image signal, converting the external progressive scanning image signal into an internal interlaced scanning image signal by separating fields from the progressive scanning image signal and transmitting the separated fields if the external progressive scanning image signal is received, one switching between one of the internal interlaced scanning image signal

and the external interlaced scanning image signal; and converting one of the internal interlaced scanning image signal and the external interlaced scanning image signal into a second TS; and

transmitting one of the first TS and the second TS over a wireless medium,

wherein the converting one of the internal interlaced scanning image signal and the external interlaced scanning image signal into a second TS comprises:

encoding one of the external interlaced scanning image signal and the internal interlaced scanning image signal into the second TS; and

converting one of the internal interlaced scanning image signal and the external interlaced scanning image signal received from the one switching, into the second TS.

11. The method as claimed in claim 10 further comprising decoding one of the first TS and the second TS and transmitting a decoded signal to an image device through a wire.

12. (canceled).

13. The method as claimed in claim 10, wherein the converting the external progressive scanning image signal into an internal interlaced scanning image signal comprises:

converting the external progressive scanning image signal into a digital signal; and

down converting the digital signal into the internal interlaced scanning image signal by separating the fields from the progressive scanning image signal and transmitting the separated fields.

14. The method of claim 11, wherein the transmitting one of the first TS and the second TS over the wireless medium is done at a radio frequency.

15. The method of claim 13, wherein the transmitting one of the first TS and the second TS over the wireless medium is done at a radio frequency.

16. (canceled).

17. The set top box of claim 1 further comprising another switching unit which receives the first TS and the second TS and outputs one of the first TS and the second TS as an output to the wireless processing module.

18. (canceled).

19. The method as claimed in claim 10 further comprising another switching between the first TS and the second TS for the transmitting over the wireless medium.

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EVIDENCE APPENDIX:

Pursuant to 37 C.F.R. § 41.37(c)(1)(ix), submitted herewith are copies of any evidence submitted pursuant to 37 C.F.R. §§ 1.130, 1.131, or 1.132 or any other evidence entered by the Examiner and relied upon by Appellant in the appeal.

NONE.

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RELATED PROCEEDINGS APPENDIX

Submitted herewith are copies of decisions rendered by a court or the Board in any proceeding identified about in Section II pursuant to 37 C.F.R. § 41.37(c)(1)(ii).

NONE.